

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
EASTERN DIVISION**

ALLEN MONTEZ RUSSELL

PLAINTIFF

v.

CIVIL ACTION NO. 2:19-cv-39-TBM-MTP

**MATTHEW STRICKLAND,
ERICK HERRIN, HEATH
ROBINSON, LT. DALE BOUNDS,
SERGEANT NEAL ROCKHOLD,
OFFICER ZACHARY ROBINSON,
and DETECTIVE CHADRA DANIELS**

DEFENDANTS

ORDER ADOPTING REPORT AND RECOMMENDATIONS

This matter is before the Court on submission of the Reports and Recommendations [90] and [92] entered by United States Magistrate Judge Michael T. Parker on April 1, 2021, and April 15, 2021. After considering the record, the Plaintiff's testimony at the omnibus hearing, and the applicable law, Judge Parker recommends that the Plaintiff's claims be dismissed. Specifically, Judge Parker recommends that the Plaintiff's false-arrest claim against Defendant Chadra Daniels be dismissed without prejudice as to the Plaintiff's ability to bring a § 1983 action upon final resolution of his criminal case. *See* [90]; *see also Johnson v. McElveen*, 101 F.3d 423 (5th Cir. 1996); *Graham v. Starks*, No. 4:14-cv-15-DMB, 2014 WL 1091180 (N.D. Miss. Mar. 19, 2014) (finding that a dismissal without prejudice was a more efficient use of resources under the circumstances of the case). Judge Parker also recommends that the Plaintiff's illegal search and seizure claims be dismissed with prejudice to their being asserted again until the conditions set forth in *Heck v. Humphrey*, 512 U.S. 447, 114 S. Ct. 2364, 129 L. Ed. 2d 383 (1994) are met. *See* [92]; *see also Hall v. Lorenz*, 48 F. App'x 481 (5th Cir. 2002); *Fraise v. Krantz*, No. 1:08-cv-1390-HSO, 2010 WL 4639076 (S.D. Miss. Nov. 8,

2010). The Plaintiff has not filed an objection to either of the Report and Recommendations, and the time for filing objections has expired.


“When a party fails timely to file written objections to the magistrate judge’s proposed findings, conclusions, and recommendation, that party is barred from attacking on appeal the unobjected-to proposed findings and conclusions which the district court accepted, except for plain error.” *Casas v. Aduddell*, 404 F. App’x 879, 881 (5th Cir. 2010) (citing *Douglas v. United Serv. Auto Ass’n*, 79 F.3d 1415, 1428-29 (5th Cir. 1996) (en banc); 28 U.S.C. § 636(b)(1)). Having considered Judge Parker’s Report and Recommendations, the Court finds neither is clearly erroneous nor contrary to law. FED. R. CIV. P. 72(b).

IT IS THEREFORE ORDERED AND ADJUDGED that the Reports and Recommendations [90] and [92] entered by United States Magistrate Judge Michael T. Parker on April 1, 2021, and April 15, 2021, are ADOPTED as the opinion of the Court.

IT IS FURTHER ORDERED AND ADJUDGED that the Plaintiff’s claim against Defendant Chadra Daniels is DISMISSED without prejudice to the Plaintiff’s ability to bring a § 1983 action upon final resolution of his criminal case.

IT IS FURTHER ORDERED AND ADJUDGED the Plaintiff’s illegal search and seizure claims against Defendants Erick Herrin, Heath Robinson, Dale Bounds, Neal Rockhold, Matthew Strickland, and Zachary Robinson are DISMISSED with prejudice to their being asserted again until the conditions set forth in *Heck v. Humphrey*, 512 U.S. 447, 114 S. Ct. 2364, 129 L. Ed. 2d 383 (1994) are met.

THIS, the 3rd day of September, 2021.


TAYLOR B. McNEEL
UNITED STATES DISTRICT JUDGE